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March 30, 1998

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

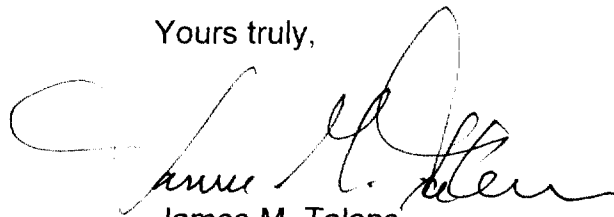
**Re: Further Notice of Proposed Rulemaking in CC Docket No. 96-115,
Implementation of the Telecommunications Act of 1996;
Telecommunications Carriers' Use of Customer Proprietary Network
Information and Other Customer Information**

Dear Ms. Salas:

Enclosed for filing are an original and four copies of the Comments of Iridium North America in the above-referenced proceeding. Please date stamp and return the extra copy that is enclosed.

Please do not hesitate to contact us if you have any questions.

Yours truly,



James M. Talens
**Counsel for Iridium
North America**

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)

Implementation of the)
Telecommunications Act of 1996;)
Telecommunications Carriers' Use of)
Customer Proprietary Network Information)
and Other Customer Information;)
Implementation of Non-Accounting)
Safeguards of Sections 271 and 272 of the)
Communications Act of 1934, as Amended)
_____)

CC Docket No. 96-115

To: The Commission

COMMENTS OF IRIDIUM NORTH AMERICA

Iridium U.S., L.P. ("Iridium North America" or "INA") hereby respectfully submits comments to the Further Notice of Proposed Rulemaking¹ in the above-captioned proceeding.² INA urges the Commission to reject the Federal Bureau of Investigation's ("FBI")

¹ In the Matter of Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended, Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket 96-115 (rel. Feb. 26, 1998) ("CPNI Order and Further Notice").

² INA is a limited partnership owned by subsidiaries of Motorola, Inc., Sprint Corporation and BCE, Inc. (Canada's largest telecommunications company). Each of the partners is an investor in the IRIDIUM[®] System. Iridium LLC has allocated INA the North American gateway service territory, consisting of Canada, Bermuda, Puerto Rico and the U.S. The Commission recently granted INA Section 214 authority to serve all international points

(Continued ...)

request to interpret and implement Section 222 of the Communications Act of 1934, as amended, 47 U.S.C. § 222, in such a way as to require telecommunications carriers to store proprietary network information (“CPNI”) within the U.S. and to prohibit access to this information from outside the U.S.

The FBI has proposed that CPNI for U.S. customers who only subscribe to domestic services be stored in the U.S.³ Section 222 of the Act, which is controlling on this issue, cannot be read to require domestic storage of CPNI or to limit access to CPNI by foreign carriers. Congress has not identified the location of CPNI as a concern and the Commission cannot read this requirement into the statute. Moreover, by the FBI’s own definition, its proposal does not apply to global MSS networks, which primarily will provide service to non-U.S. customers on an integrated international/domestic basis. Even if the FBI’s proposals did apply to integrated domestic/international service providers, INA is, by virtue of its system design, unable to “exclusively store” its CPNI in the U.S.

While the FBI raises economic-security and business-proprietary-based concerns, a telecommunications carrier adequately addresses those concerns by complying with the applicable CPNI protection requirements embodied in Section 222 and in the Commission’s newly adopted rules.⁴ Notably, there is no domestic CPNI storage requirement today and the FBI has offered no justification for such a change, even if it were permitted under Section 222.

Accordingly, INA urges the Commission to reject the FBI’s domestic storage proposal.

from the U.S. via the Iridium network of space and ground-based facilities. (See FCC File No. ITC-97-697.)

³ See CPNI Order and Further Notice at ¶¶208-10.

⁴ Id. at Appendix B.

I. Section 222 of the Act Cannot Be Read to Require Domestic Storage of CPNI or to Limit Access to CPNI by Foreign Carriers

Section 222 of the Act places a duty on telecommunications carriers to protect the confidentiality of proprietary information of other carriers, equipment manufacturers, and customers. See 47 U.S.C. § 222 (a). In particular, the Act requires that telecommunications carriers which receive CPNI by virtue of their provision of services:

only use, disclose, or permit access to individually identifiable customer proprietary network information in its provision of (A) the telecommunications service from which such information is derived, or (B) services necessary to, or used in, the provision of such telecommunications service, including the publishing of directories.⁵

The Commission has now adopted regulations for the protection of CPNI by U.S. carriers, wherever such data are stored.

It is clear, however, that Section 222 cannot be read to require domestic storage of CPNI or limit access to CPNI by foreign carriers, as the FBI now proposes. Neither the statute nor its legislative history contains any indication that Congress intended to regulate the location of CPNI or access to CPNI by foreign carriers. The FBI itself acknowledges that Congress has comprehensively dealt with the privacy of CPNI but did not establish limitations on the storage and access of these data.⁶ It would be inappropriate for the Commission to adopt now such

⁵ 47 U.S.C. § 222 (c)(1).

⁶ See In the Matter of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Notice of Proposed Rulemaking, 11 FCC Rcd. 12513 (1996) ("FBI Comments") at n.5.

limitations in a proceeding merely intended to implement the statutory obligations of Section 222 and other statutory provisions.⁷

Global telecommunications carriers would be significantly harmed if required to store all CPNI for its customers in the U.S. Congress did not enact Section 222 for that purpose, and no reasonable reading of the statute reveals such an intent. The Commission must not adopt rules that could have profound and broad repercussions within the telecommunications industry -- and other consumer networks -- until Congress has spoken on this matter.

The Commission must reject the FBI's proposal to create new national policy by using Section 222 in this unprecedented and unintended manner.

II. The FBI's Concerns Are Already Satisfied by the Commission's CPNI Protection Rules

The FBI's proposal is unnecessary. The Commission's newly adopted CPNI privacy protection rules already limit telecommunications carriers' use of CPNI to ordinary businesses purposes.⁸ A carrier can comply with these rules quite apart from where it stores its records and whether affiliated carriers in other countries have access to these records. For its part, INA will comply fully with the Commission's CPNI protection rules.

Understandably, the FBI is concerned that CPNI not be readily available for public consumption or other unwarranted use.⁹ However, the economic-security and business-proprietary-based concerns raised by the FBI will not be alleviated by requiring domestic storage

⁷ See CPNI Order and Further Notice at ¶¶3-4.

⁸ See n.1, supra.

⁹ See FBI Comments at 9.

of all CPNI. Indeed, domestic storage of these records provides no greater protection for consumers or compliance with the requirements of Section 222 of the Act. For that matter, the requirement of domestic storage of CPNI would assure a far greater data transfer and maintenance burden on carriers, including possible interception. As a practical matter, a U.S. carrier can comply with legitimate U.S. law enforcement subpoenas regardless of where its records are stored.

III. The FBI's Proposal for Storage of CPNI Must Exclude Integrated International/Domestic Service Providers Like INA

Even if the Commission were to decide to adopt the FBI's proposal, on its face the proposal does not apply to global MSS providers, such as INA.¹⁰ The FBI has proposed that the Commission regulate licensed telecommunications carriers' ability to store CPNI outside the U.S. and the ability of foreign carriers to access, from outside the U.S., CPNI stored in the U.S., "with regard to the CPNI of U.S. customers who only subscribe to domestic telecommunications services."¹¹

First, global MSS carriers provide integrated international/domestic services, not just "domestic telecommunications service." For example, virtually every customer will have global access to the IRIDIUM System. Thus, INA, as well as other integrated

¹⁰ Indeed, contrary to the over-regulatory approach the FBI proposes, the Commission has acknowledged that unique system features and technical requirements can warrant exemption from obligations imposed on terrestrial networks. See, e.g., In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, 12 FCC Rcd. 22665 (1997); In the Matter of Regulation of International Accounting Rates, 11 FCC Rcd. 20063 (1996).

¹¹ FBI Comments at 1.

domestic/international service providers, are not subject to the FBI's proposal for further Commission regulation of CPNI.

Second, the FBI's proposal focuses solely on "U.S. customers." The FBI itself defines "domestic [or U.S.] customers" as "customers, both individuals and businesses, whose telecommunications service (and whose CPNI related to such service) is essentially intra-U.S. in nature."¹² International global MSS subscribers who make roaming calls while within the U.S. are not U.S. customers because they are customers of foreign service providers who are operating through non-U.S. gateways. For example, an Iridium subscriber of any nationality may enroll for service in Germany. When that German customer visits the U.S. and calls from New York to Washington, D.C., the CPNI associated with that call is documented and retained in Italy (the location of the gateway serving Germany) and in Germany. The German customer would not become a U.S. customer merely by having made a call within the U.S. He or she would remain a German customer because he or she originally selected -- and remains -- a German service provider's customer.

Redefining this German caller as a U.S. customer would essentially amount to treating all foreign callers roaming within the U.S. as U.S. customers, regardless of the location of their contracted service provider or the locations of their home gateways. As discussed herein, this in turn would drastically alter the way that all global telecommunications service providers manage the CPNI of roaming customers, including cellular and PCS carriers.

¹²

Id.

IV. Global Mobile-Satellite Service Providers Cannot Maintain CPNI Solely Within the U.S.

The FBI's proposal would also impose unnecessary hardships on global telecommunications companies such as INA. The architectural design of INA's network simply cannot accommodate the operational limitations required by the FBI's proposal. Indeed, INA believes that other U.S. carriers with global roaming capability similarly cannot limit the storage of or access to CPNI within the U.S. -- even for domestic U.S. calls as defined by the FBI. INA's integrated global satellite service is dependent upon the global exchange of CPNI between affiliated gateway operators and service providers within the IRIDIUM[®] System.

The IRIDIUM System consists of a global network of 66 low Earth orbiting satellites initially linked to 11 gateway Earth stations which in turn connect the satellite network to both the public switched telephone network and participating mobile terrestrial networks. IRIDIUM System customers communicate virtually wherever they are located using subscriber units that may be either dual-mode handsets or pagers. One or more gateway Earth station operators, such as INA, will have access to CPNI for the purpose of initiating and terminating these calls, as well as reconciling call revenues, between the various gateway operators and national service providers who may be involved with the transmission of such calls. INA briefly explains below the global sharing of CPNI that is integral to the operations of the IRIDIUM System.

For purposes of billing, a customer's "home" territory is defined as the gateway geographic region that is responsible for the country where the customer first contracts for

service.¹³ INA has identified only one limited instance where it even conceivably could comply with the FBI's proposed requirements: If a customer contracts for IRIDIUM System service in the U.S., the "home" gateway for that customer will be the Tempe, Arizona gateway.¹⁴ If this U.S. customer makes a call originating and terminating within the U.S., the associated CPNI will be retained at the Tempe, Arizona gateway and shared only with the U.S. service provider.

For all other calls, compliance with the FBI's storage proposals is virtually impossible. For example, if a U.S. customer makes a call from the U.S. to any international point, the CPNI associated with that call will be passed both to the U.S. gateway and the foreign gateway (the terminating gateway) responsible for that country and then to the service provider in the country of termination. Moreover, a domestic U.S. call placed by a "roaming" foreign customer will include transmission of CPNI through one foreign gateways. (A "roaming" customer is a subscriber who is registered with a gateway region other than the gateway region from which the call is placed.) When this customer comes to the U.S. and makes a domestic U.S. call, the CPNI is transmitted to the customer's home gateway, and then on to the foreign service provider. Likewise, for a call made from the U.S. to another country, this customer's CPNI is shared with the foreign gateway and service provider. INA understands that this flow of

¹³ Most gateway operators are responsible for offering service to several countries, usually through unaffiliated service providers (such as telephone or cellular companies) in various countries. For example, INA is the gateway operator for the U.S., Puerto Rico, Canada, and Bermuda. While INA itself holds a Section 214 authorization to provide international services to and from the U.S., it expects that several unaffiliated companies will contract with INA to be U.S. international service providers and hold their own Section 214 authorizations.

¹⁴ INA again notes that it is the country where the subscriber first signs up for service, not that customer's nationality, which determines the customer's "home" gateway territory for all record keeping purposes.

CPNI is not unlike the treatment of terrestrial CPNI for foreign cellular/PCS customers who make roamer calls while in other countries; terrestrial roamers' CPNI is also sent to the home carrier for billing and reconciliation.

The global movement of CPNI within the IRIDIUM System reflects the integrated nature of this global MSS network. For almost every IRIDIUM System call, two or more gateway operators and national service providers will be responsible for the set up, transmission and termination of the call. Each will in turn have the right to a portion of the revenues for that call and each will share the responsibility for reconciling billing discrepancies and other customer service matters. This joint responsibility requires sharing of CPNI within the IRIDIUM System.

INA, in cooperation with Iridium LLC, has been planning its billing and traffic recording system for more than five years, at significant cost. While INA is committed to the protection of CPNI in accordance with the new FCC rules, it is unable to make the fundamental changes in its system architecture that are called for by the FBI's storage proposal. INA urges the Commission to carefully examine the operation of global mobile service networks before it considers adopting any CPNI storage or access limitation proposal. Otherwise, it could unwittingly be imposing a great hardship on its licensees.

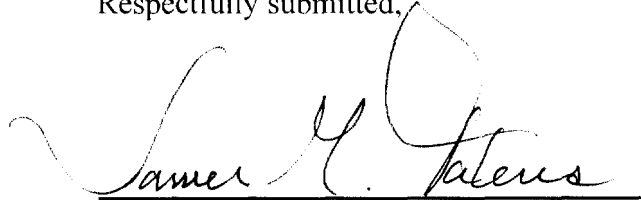
V. Conclusion

Domestic storage of CPNI is an unnecessary regulatory requirement that assures a far greater data transfer and maintenance burden on carriers than is required by the law. For integrated global MSS carriers like INA, it is an impossible burden, wholly inconsistent with the

operation of an integrated network. As a practical matter, a U.S. carrier can comply with legitimate U.S. law enforcement requirements regardless of where its records are stored.

For all the foregoing reasons, INA urges the Commission to reject the FBI's proposals regarding the storage of CPNI.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Philip L. Malet", written over a horizontal line.

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